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This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Joint Application of Charter Fiberlink SC-CCO, LLC and Time Warner Cable Information Services (South Carolina), LLC (“Joint Applicants”) for designation as Eligible Telecommunications Carriers (“ETCs”) in the State of South Carolina for the service areas in which the eligible census block(s) have been provisionally awarded Rural Digital Opportunity Fund (“RDOF”) Phase I support by the Federal Communications Commission (“FCC”) for winning bids in the RDOF Phase I auction (“Auction 904”).

¹ 47 U.S.C.A. § 214(e)(2).

Joint Applicants request waiver of Regulation 103-690.C.(a)(1)(B), regarding submission of a two-year plan, and Regulation 103-690.C.(a)(5), regarding an affidavit acknowledging that the FCC may require Joint Applicants to provide equal access to long distance carriers in the event no other eligible telecommunications carrier is providing equal access within the service area. The Joint Applicants also request waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation as an ETC in an area smaller than a wire center. The Joint Applicants further request expedited consideration of this matter and waiver of the formal evidentiary hearing.

Upon review of the Joint Application and all of the supporting documents submitted by the Joint Applicants, and for the reasons explained in this Order, the Commission concludes that the Joint Application and certain Regulation waivers should be approved and that designation of the Joint Applicants as ETCs on the terms provided in this Order would serve the public interest.

I. BACKGROUND

On January 30, 2020, the FCC established the RDOF program to ensure continued and rapid deployment of broadband networks to unserved Americans.² RDOF will commit up to \$20.4 billion over ten years to support the availability of high-speed networks in rural areas of the United States. The FCC released the RDOF Closing Public Notice³ on December 7, 2020 announcing the conclusion of Auction 904. Auction 904 resulted in winning bids totaling \$9.23 billion in support for broadband deployment over ten years.

² See *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (“RDOF Order”).

³ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422 (rel. Dec. 7, 2020) (“RDOF Closing Public Notice”).

The Joint Applicants filed their verified Joint Application for designation as ETCs on January 6, 2021. As directed by the Commission, notice of the filing of the Joint Application was published and proof of publication provided to the Commission. The South Carolina Office of Regulatory Staff (“ORS”) is a statutory party in this matter. See S.C. Code Ann. § 58-4-10(B). No other comments or petitions to intervene were received in response to the notice. Thus, all interested persons have been afforded an opportunity for a hearing, as required by S.C. Code Ann. § 58-9-280(B), Section 1-23-320(a) of the South Carolina Administrative Procedures Act, and constitutional due process. Proceeding without a formal hearing in this matter would serve the public interest in administrative efficiency.

On May 13, 2021, a Stipulation entered into between the Joint Applicants and ORS was filed with the Commission (“Stipulation”). The Stipulation recommends that the Joint Applicants be designated as ETCs in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Order Exhibit A. The Joint Applicants filed the direct testimony of Michael A. Chowaniec in support of the Joint Application on March 9, 2021 and provided verification of said testimony on March 15, 2021. ORS filed the direct testimony and exhibits of Christopher J. Rozycki on April 2, 2021. The Joint Applicants were assigned a winning bid for 11,936 eligible census blocks as identified in Exhibits A and B to the Joint Application,⁴ attached hereto as consolidated Exhibit B. The Commission held oral arguments on March 15, 2021 regarding the Joint Applicants’

⁴ On May 21, 2021, the Charter Entities filed a letter with the Commission which included, as part of their filing, a confidential list identifying certain RDOF-awarded census blocks in South Carolina that had been submitted to the FCC for modification of the list of awarded census blocks. Thus, consistent with the Stipulation, once the FCC issues its modified RDOF awarded census block list under the Phase I auction for South Carolina, the Charter Entities’ must file notice of same along with supporting documentation for purposes of informing this Commission and ORS of the modification to their respective ETC designated service areas approved herein.

request for expedited review, requesting that the Commission waive a formal hearing and approve the Joint Application and requested waivers. The ORS did not object to the request for expedited review of the Joint Application and requested waivers conditional upon the executed Stipulation. Having considered the record before it, the Commission finds that it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the formal hearing and granting expedited consideration.

II. ANALYSIS

Section 214(e)(2) of the Communications Act authorizes state commissions to designate common carriers that meet the applicable requirements as ETCs. Regulation 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC for the purpose of receiving federal universal service support pursuant to Section 214(e). As demonstrated in the Joint Application, the Verified Testimony and the Stipulation, the Joint Applicants satisfy all the relevant requirements for designation as ETCs specified in Sections 254 and 214 of the Communications Act and Regulation 103-690. For participation in the RDOF program the Joint Applicants are common carriers as defined by 47 U.S.C.A. § 153(11), and will offer all the voice and broadband internet services supported by federal support mechanisms either using their own facilities or combination of their own facilities and resale of another carrier's services, and advertise the availability of their offerings and charges through media of general distribution. The Joint Applicants have certified that they will comply with the service requirements; demonstrated their ability and commitment to remain functional in emergency situations; demonstrated their commitment to satisfy applicable consumer protection and service quality standards, including

annual certification of their compliance and reporting of consumer complaints in accordance with Regulations 103-690.C(a)(3) and 103-690.1.B(b)(4); demonstrated that the Joint Applicants are financially and technically capable of providing the service; demonstrated that they will provide local usage plans comparable to the incumbent local exchange carriers already operating in the area; and committed to comply with applicable federal and state reporting requirements including, but not limited to, submitting reports regarding unfulfilled service requests under Regulation 103-690.1.B.(b)(3) and other annual reports required by Regulation 103-690.1. Additionally, in accordance with 47 C.F.R. § 54.101(d) and Regulation 103-690.1.E, the Joint Applicants will offer voice and broadband internet access service to low-income customers in their RDOF designated service areas.

Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant the Joint Applicants ETC designation for the purpose of providing voice and broadband Internet access services.

III.FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Joint Application, pre-filed testimony and Stipulation are accepted into the record without objection;
2. Since this matter is uncontested, ORS does not oppose the Joint Application and waivers, and the Joint Applicants otherwise meet the requirements for ETC designation as described below, expedited review should be granted;
3. The Joint Applicants meet all federal and state requirements for ETC designation as ETCs in the proposed RDOF areas where they seek designation, with the exception of those requirements for which waiver is requested and specifically granted, as included herein;

4. The Commission grants the Joint Applicants' request for a waiver of the requirement to file a two-year plan describing proposed improvements or upgrades to their network. The Commission may waive a rule or regulation where circumstances indicate that a waiver is appropriate, upon a finding that such waiver is not contrary to the public interest. In lieu of filing the two-year plan provided for in Regulation 103-690.C.(a)(1)(B), the Joint Applicants shall make available to the Commission and ORS all reports they are required to file with the FCC in connection with the RDOF Phase I funding for the ETC designated service areas, as described above. The Joint Applicants shall provide ORS with estimated timelines for the census blocks they propose to serve. We conclude that providing the referenced reports to the Commission and to ORS provides a well-defined yardstick by which to measure the Joint Applicants' progress towards the availability of voice and broadband service in the RDOF designated areas and is therefore an acceptable alternative to the 2-year plan filing requirement.

5. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Joint Applicants as ETCs in an area smaller than a wire center. As described above, the FCC has established a mechanism to ensure the deployment of voice and broadband to unserved areas based on a granular analysis at the census block and location level to target funding to such areas. We agree with the Joint Applicants that if the Commission were to deny the ETC designations the Joint Applicants request at the census block level in order to obtain available federal funding to serve the funded areas, those areas likely would remain unserved. Therefore, it is in the public interest to grant a waiver of the portion of Regulation 103-690.C(b) that prohibits designating an ETC service area smaller than an entire wire center in order to allow designation of the Joint Applicants as ETCs at the census block level as described herein.

6. The Commission waives the equal access requirement of Regulation 103-690.C.(a)(5), which requires an applicant to acknowledge that the FCC “may require” it to offer equal access to long distance carriers. The Commission’s ETC regulations generally track the corresponding federal ETC regulations, and equal access is no longer a requirement under the FCC’s universal service rules, previously existing under 47 C.F.R. § 54.202(a)(5). Compare 47 C.F.R § 54.202(a)(5) (2020) with 47 C.F.R § 54.202(a)(5) (2007).

7. Granting this Joint Application furthers the goals and purposes of Section 254 of the Communications Act, in that access to the federal Universal Service Fund will ensure expanded access to voice and broadband service; and

8. Granting this Joint Application allows the Joint Applicants to build out unserved areas, bringing the benefits of voice and high-speed broadband to citizens in those areas; therefore, granting this Joint Application is in the public interest.

IV. IT IS THEREFORE ORDERED THAT:

1. The Commission adopts and approves the Stipulation executed between the Joint Applicants and ORS attached hereto as Exhibit A.

2. The Commission grants expedited review to allow the Joint Applicants to meet the federal requirement to be designated as ETCs in the RDOF designated areas identified in Exhibit B not later than June 7, 2021.

3. The Joint Applicants’ request for designation as ETCs is granted, as of the effective date of this Order and in the requested areas identified in Exhibit B, for the purpose of providing voice and broadband Internet access services as requested in the Joint Application on the terms provided in the Stipulation.

4. The Joint Applicants shall abide by their commitment to provide service throughout the ETC-designated service areas to all customers making a reasonable request for service, including low-income customers.

5. The Joint Applicants shall make available to the Commission and ORS the reports they are required to file with the FCC in connection with the RDOF Phase I funding for the designated service areas. The Joint Applicants shall provide ORS with estimated timelines for the census blocks they propose to serve.

6. Except as provided in this Order, the Joint Applicants shall meet the reporting and certification requirements for ETCs as outlined by the Federal requirements and Regulation 103-690.1, and file the annual reporting information with the Commission no later than June 30th of each year. A copy of this report shall be provided to the ORS.

7. The Commission grants the Joint Applicants' request for a waiver of Regulation 103-690.C.(a)(1)(B) requiring them to file a two-year plan describing proposed improvements or upgrades to their network.

8. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Joint Applicants as ETCs in an area smaller than a wire center.

9. The Commission further grants waiver of the equal access requirement set out in Regulation 103-690.C.(a)(5).

10. The Joint Applicants shall provide voice and broadband services in conformity with 47 U.S.C.A. § 214(e)(2), 47 C.F.R. § 54.101 et seq., and Regulation 103-690.1 (E)(a) and all requirements of the RDOF program.

11. The Commission may deny the Joint Applicants' annual recertification as an ETC if the Commission finds that the Joint Applicants have not used the high-cost federal support

provided to the Joint Applicants within the State only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Justin T. Williams, Chairman

ATTEST:

Florence P. Belser, Vice-Chairman

(SEAL)